

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Golden West Oil Co., Inc.  
11040 Cherry Avenue  
Fontana, California 92335

EPA ID No. CAD980893325

Respondent.

Docket No. HWCA 20040574

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Golden West Oil Co., Inc. (Respondent).

1.2. Site. Respondent transports, handles, treats, and/or stores hazardous waste at the following site: 11040 Cherry Avenue, Fontana, California 92335 (Site).

1.3. Permit/Interim Status. The Department authorized Respondent to manage hazardous waste by hazardous waste transporter registration number 0219, most recently issued on May 18, 2004. Respondent has been a registered hazardous waste transporter since 1985. Respondent does not have a permit to handle, store, or treat hazardous waste.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary

to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Exhibits. All exhibits attached to this Order are incorporated herein by this reference.

1.6. Applicable Statutes and Regulations. Copies of the statutes and regulations applicable to this Order are attached as Exhibit 1.

#### DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated Health and Safety Code (HSC) section 25201 (a) in that on or before August 19, 2003, Respondent routinely transferred and/or stored hazardous waste used oil and/or antifreeze from its bobtail tanker trucks into larger capacity dedicated tanker trucks at its yard at 11040 Cherry Avenue in Fontana. Respondent does not have a permit or other grant of authorization from the Department to transfer and/or store hazardous waste. According to the Hazardous Waste Tracking System (HWTS) Manifest Shipments by Date Report, this has occurred on approximately 771 occasions between August 19, 1998 and August 19, 2003.

2.2. The Respondent violated HSC section 25160.2 (b)(6) and (b)(8) in that on or before August 19, 2003, Respondent failed to follow the consolidated manifesting

procedures, to wit: GWO failed to submit the generator copy of the consolidated manifest to the department within 30 days of each shipment. In addition, GWO failed to submit all copies of the manifest to the designated facility and obtain the signature and date on the manifest from a representative of the designated facility. According to the Hazardous Waste Tracking System (HWTS) Manifest Shipments by Date Report, this has occurred on approximately 771 occasions between August 19, 1998 and August 19, 2003.

2.3. The Respondent violated Title 22, California Code of Regulations, section 66263.20 (g)(1) in that on or before August 19, 2003, Respondent failed to obtain the date of delivery and the handwritten signature of the owner or operator of the designated facility on the manifest, to wit: Respondent created "cover manifests" for loads that it transferred and bulked. Respondent then listed a number of manifests on the cover manifest. Only the "cover manifest" would be provided to the designated facility for signature. None of the manifests listed on a "cover manifest" would be delivered to the designated facility for signature. According to the Hazardous Waste Tracking System (HWTS) Manifest Shipments by Date Report, this has occurred on approximately 771 occasions between August 19, 1998 and August 19, 2003.

2.4. The Respondent violated HSC section 25189 (a) in that on or before August 19, 2003, Respondent negligently made a

false statement on manifest 21780089, to wit: Manifest 21780089 is a "cover manifest" which cross references as having been a manifest transfer for manifest 21780073, as well as four other manifests. Manifest 21780073 was produced by GWO as representing the contents of what was present in the tanker truck in the center of the yard on August 19, 2003. The contents of manifest 21780073 were not contained as part of the bulk load that was delivered to a Treatment, Storage and/or Disposal Facility (TSDF) under "cover manifest" 21780089 on August 13, 2003. The original manifest 21780073 was subsequently delivered to a TSDF by GWO on August 20, 2003.

#### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. Immediately, Respondent shall cease the handling, storage and transfer of hazardous waste without authorization from the Department.

3.1.2. Immediately, Respondent shall submit all copies of the manifest to the designated facility. Respondent shall submit the generator copy of all consolidated manifests to the Department within 30 days of each shipment.

3.1.3. Immediately, Respondent shall obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on all manifests.

3.1.4. Immediately, Respondent shall cease making

false statements on manifests.

3.2. Submittals. All submittals from a Respondent pursuant to this Order shall be sent simultaneously to:

Stephen C. Sterling, Chief  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

and

Richard L. Jones  
Senior Hazardous Substances Scientist  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1011 N. Grandview Avenue  
Glendale, California 91201

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order,

Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant

to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Request: If Respondent is unable to perform any activity or submit any document within the time



required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$76,508. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Stephen C. Sterling, Chief  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

and

Richard L. Jones  
Senior Hazardous Substances Scientist  
Task Force Support and Special Investigations Branch  
Department of Toxic Substances Control  
1011 N. Grandview Avenue  
Glendale, California 91201

RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance August 11, 2004

Original signed by

Phillip Blum, P.E.  
Unit Chief  
Task Force Support and Special  
Investigations Branch  
Department of Toxic Substances Control